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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,111	02/23/2004	Eugene August Fusz	46	9116
26362	7590	05/19/2005		
LOUIS J. HOFFMAN, P.C. 14614 NORTH KIERLAND BOULEVARD, SUITE 300 SCOTTSDALE, AZ 85254			EXAMINER POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/785,111	Applicant(s) FUSZ ET AL.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 27-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments have been considered but are not persuasive.

Applicant representative argues that Dworkin does not teach or suggest a generally available wide area network.

In response, the Examiner disagrees because Dworkin clearly teaches a wide area network since there includes a plurality of buyers and a plurality sellers and the system is available to users located in different geographic areas.

Applicant has provided several court case decisions that are not proper since only a single reference is used.

The applicant argues that Dworkin does not teach or suggest a second database.

However, the Examiner reminds the applicant that a database is usually a group of related tables or databases. The system of Dworkin would include a client database, a product database or table and or a billing database or table which would be linked to one another thereby providing one or more databases. Having more than one database in the system of Dworkin would have been obvious to one of ordinary skill in the art. Updating of these databases would have also been obvious to one of ordinary skill in the art at the time of the invention for tracking and reconciliation purposes.

Applicant's argument of the advantages of the invention is also not convincing because the Examiner must firstly consider the prior art. The argued advantages of the invention are viewed as secondary considerations.

As arguments related to the Internet, the Examiner asserts that a group of databases accessible through a network by users remotely located in different areas is similar to the Internet.

Applicant's representative argues that dependent claims 29, 30 and 44 and independent claims 45 and 63 contain limitations referring to "special offers" whereby a buyer can post a special offer to purchase a product either to sellers or to specified sellers and argues that Dworkin does not provide such a teaching.

In response, Dworkin clearly teaches a buyer posting information to receive information about products/services desired to purchase (column 2, lines 42-48) from potential sellers. While the term "special offer" is clearly not specifically stated, however, one of ordinary skill in the art would note that such is only a difference in label which attributes to no patentable differences apart from Dworkin.

Applicant's representative then states that claim 33 refers to allowing the seller to perform a mass upload to the file server of pricing data and product configuration data for all products of that potential seller and argues that Dworkin does not provide such a teaching.

In response, as products are being sold and because of the different seasons and holidays, products and prices are continuously changing. Therefore, uploading of products/services data by the different sellers is inevitable. This feature whether stated or not is met by Dworkin based on this rationale. Furthermore as indicated in the prior Office action, customers' records must also be updated. Thus, providing upload of sellers' information would have been obvious to one of ordinary skill in the art to do for the same reason given in the prior Office action.

As per arguments related to claims 28, 44, 48, 51, 62 and 64, the Examiner notes that no details of the type of bill are being claimed. A charge for a fee is well known in the art. One of ordinary skill in the art at the time of the invention was made would have been motivated to generate a bill for a fee for each purchase order transmitted over the wide area network in the system of Dworkin because of the administrative and maintenance costs of the system of Dworkin.

Applicant's representative then argues that as per dependent claims 35 and 55 which refer to limiting matching products to those in a specified geographic region is not taught by Dworkin. The Examiner has indicated that such a feature is not taught by Dworkin and indicated that

“Matching products to those products in a geographic region below the specified price cap or as specified by the potential buyer would have been obvious to do in the system of Dworkin in order to broaden the choices of the available of products and related prices to users so that a user may obtain a product for a best or lowest available price”.

In detailing claims 35, 55, 56 and 57, it should be noted that:

As per claim 35, matching products to those products in a geographic region specified by a potential buyer would have been obvious to one of ordinary skill in the art to do in the system of Dworkin in order to allow a buyer to obtain a similar product which is being sold at their geographical area for a lower price. It is also noted that Dworkin allows a user to search for the lowest price.

As per claim 55, accepting geographic data of the potential sellers which also includes accepting specifications of one of several geographic regions is interpreted as a user inputting geographical locations or the place(s) of business of a seller. The additional limitation of

“limiting matching products to those products in the geographic region specified by the potential buyer” is similar to limitations of claim 35 and the same rationale for rejecting claim 35 applies herein.

As per claim 56, as per the limitations of accepting a price cap and which includes limiting matching products to those products below the price cap specified by the potential buyer, the Examiner states that,

“Matching products to those products in a geographic region below the specified price cap or as specified by the potential buyer would have been obvious to do in the system of Dworkin in order to broaden the choices of the available of products and related prices to users so that a user may obtain a product for a best or lowest available price”.

As per claim 57, claim 57 relates to aspect of transferring the requested information back to the relevant potential buyer. The Examiner however, notes that in most database systems, a result of an inquiry would be transferred back to the entity or user making the request. Therefore, the limitation of claim 57 would have been obvious to one of ordinary skill in the art to do in the system of Dworkin with the above modification as such is interpreted of transmitting a result of an inquiry to a user.

As per claim 38, applicant’s argument is not convincing because billing in a computer network is usually associating with a particular system linking to a credit card company or banks or other types of financial institutions.

2. The prior Office action is repeated below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin (US Patent No. 4,992,940).

As per claims 27, 46, 50, Dworkin discloses all the claimed invention particularly, an electronic product exchange system (see abstract) comprising:

(a) a file server accessible through a generally available wide area network (figure 1);

(1) from personal computers of a multitude of potential buyers coupled to the network (figure 1 and column 2, lines 1-5), and

(2) by a multitude of potential sellers (figure 1 and column 1, lines 63-67);

(b) a first computer database, accessible to the file server, containing pricing and product configuration data for a multitude of different products for sale (column 3, line 45 to column 4, line 12);

(c) a processor coupled to the file server and capable of (figure 1):

(1) searching the first computer database for those products of the multitude that match a request containing select product configuration data transmitted through the wide area network by one of the potential buyers (column 5, lines 10-54), and (2) automatically transferring the pricing data and product configuration data of the matching products through the wide area network to the

personal computer of the potential buyer who made the request (column 5, line 55 to column 6, line 37); and

(d) a computer database coupled to the file server and capable of automatically recording buyer identification data, seller identification data, price, and product configuration data in response to purchase orders transmitted over the wide area network to the file server from the personal computer of a potential buyer (column 8, lines 9-37).

The only difference between Dworkin and the claimed invention is that Dworkin does not explicitly teach a second computer database. Having a second database to perform the claimed functions and as described by Dworkin would have been obvious to one of ordinary skill in the art in order to provide or assign different tasks to different computer subroutines or hardware so as to provide a much faster system.

As per claims 28, 48, 51 and 64, Dworkin discloses an automated billing system capable of automatically generating a bill for a fee for each purchase order transmitted over the wide area network to the file server from the personal computer of a potential buyer. See column 8, lines 37-57 of Dworkin.

As per claims 29-30, and 47, Dworkin discloses means for potential buyers to post special offers to purchase for consideration by potential sellers. See column 2, lines 41-48.

As per claims 31 and 53, Dworkin discloses providing sellers' identification. Providing a third database for storing sellers' identification is not explicitly taught by Dworkin. Having a third database to perform the claimed functions and as described by Dworkin would have been obvious to one of ordinary skill in the art in order to provide or assign different tasks to different computer subroutines or hardware so as to provide a much faster system.

As per claims 32-33 and 66, the Examiner notes that catalogs are usually updated as new products are being added or deleted. Dworkin discusses having a network for remote access similar to the Internet. Accepting pricing data and product configuration data for allowing the potential sellers to upload the data through the Internet to the computer storage at will is not explicitly taught by Dworkin. Pricing data and configuration data are taught by Dworkin. Performing the acceptance of the pricing data and product configuration data for allowing the potential sellers to upload the data through the Internet to the computer storage at will would have been obvious to one of ordinary skill in the art to do in the system of Dworkin with the motivation of storing all records for all transactions which may be used for conflict resolution purposes.

As per claims 34, 37, 54, 57, 62 and 65, Dworkin discloses providing the lowest prices to the potential buyers.

As per claims 35-36 and 55-56, Dworkin does not explicitly teach the processor is capable of limiting matching products to those products in a geographic region specified by a potential buyer or below a specified price cap. Matching products to those products in a geographic region below the specified price cap or as specified by the potential buyer would have been obvious to do in the system of Dworkin in order to broaden the choices of the available of products and related prices to users so that a user may obtain a product for a best or lowest available price.

As per claim 38, Dworkin does not explicitly teach the network is linked between the file server and financial institutions. In the system of Dworkin, a user would pay for the purchase of goods or services. Dworkin further teaches obtaining credit from suppliers. See column 10,

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lines 13-16 of Dworkin. Linking the file server to one or more financial institution would have been obvious to one of ordinary skill in the art to do in the system of Dworkin in order to facilitate billing, accounting and the provision of credits to potential buyers.

As per claims 39 and 49, the system of Dworkin is an online system where a user may access the system from any remote location just like the Internet. See figure 1 and column 2, lines 51-54.

As per claims 40-43 and 58-61, see column 2, lines 19-25 and column 5, lines 45-50 and figures 5-8 of Dworkin.

As per claims 44 and 45, applicant is directed to the rejection of claims 27-43 above.

As per claim 52, see column 2, lines 37-42 of Dworkin.

As per claim 63, see the rejection of claims 27-44 above.

As per claims 32-33 and 66, Dworkin discusses having a network for remote access similar to the Internet. Accepting the pricing data and product configuration data for allowing the potential sellers to upload the data through the Internet to the computer storage at will is not explicitly taught by Dworkin. Pricing data and configuration data are taught by Dworkin. Performing the acceptance of the pricing data and product configuration data for allowing the potential sellers to upload the data through the Internet to the computer storage at will would have been obvious to one of ordinary skill in the art to do in the system of Dworkin with the motivation of storing all records for all transactions which may be used for conflict resolution purposes.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP
May 9, 2005


FRANZY POINVIL
PATENT EXAMINER
AU 3628